

Special Report to the Legislature on **Senate Bill 1608**

*Arrests and court dispositions of felons and others
arrested for firearms possession in California's 58
counties*



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Special Report to the Legislature on Senate Bill 1608

INTRODUCTION

Senate Bill 1608 [Penal Code (PC) Section 13855(a)], effective January 1, 2001, requires the Department of Justice (DOJ) to “study and report to the Legislature by January 1, 2002, statewide information identifiable by county, about the enforcement of Sections 12021 and 12021.1...for the period of at least three years prior to January 1, 2001.”¹ This report, which presents findings for each year of the three-year period of 1998, 1999, and 2000, responds to that requirement.

PC Sections 12021 and 12021.1 restrict owning or possessing firearms by convicted felons, anyone addicted to narcotics, individuals convicted of specified misdemeanor violations (such as exhibiting weapons, threatening public officials, intimidation of witnesses, possession of loaded weapons in public buildings, and assault), and those prohibited from owning or possessing firearms as an express condition of probation. Violation of these sections may be either a felony or misdemeanor.

MAJOR FINDINGS

A fundamental question of this study is whether PC Sections 12021 and 12021.1 are effective deterrents to owning or possessing firearms by convicted felons, narcotics addicts, those convicted of specified misdemeanors, and those for whom owning or possessing firearms is expressly prohibited by probation. The major findings are included in more detail in the Discussion Section of this report. Following are the highlights of this report:

- There was a decrease in every category of arrest, court disposition, and conviction from 1998 to 2000, except convictions where there were previous convictions for serious or violent felonies.
- Other law violations are present in 78 percent of court dispositions, but are only present in 39 percent of convictions for PC Sections 12021 or 12021.1.
- Fifty-seven percent of convictions involved prison and 22 percent involved jail (almost all of which included probation). Thus, incarceration was imposed in 79 percent of convictions. Eighteen percent of convictions had the imposition of sentence suspended.
- Eleven populous counties from 1998 to 2000 were found to have substantially higher or lower percentages of sentences for prison, probation, or imposition of sentence suspended than the statewide averages. The reasons for these substantially higher and lower percentages can only be determined by additional research involving direct examination of the arrest, prosecution, and court records of each county.
- Two years five months is the central interval between release from prison and subsequent arrest for owning or possessing a firearm.

DATA REQUIREMENTS

Senate Bill 1608 [PC 13855(a)] requests information about specified topics, statewide and by county. Most of the information requested, but not all, is available. The following is a list of the information requested. Each item is followed by a comment as to the availability of that information, the table in the Data Section where detailed

information can be found, and data characteristics or limitations.

1. The number of arrests for PC Sections 12021 or 12021.1 only and with other law violations. *This information is available and provided in Table 1 in the Data Section.*

¹Deadline extended to July 1, 2002, due to the complexity of data extraction.

2. The number of prosecutions for PC Sections 12021 or 12021.1 only and with other law violations.
This information is available as court dispositions and provided in Table 2 in the Data Section. Information about specific charges is reported primarily from courts, not prosecutors. Therefore, the term “prosecutions” has been replaced by the term “court dispositions.” Counts of “court dispositions” are reasonable proxy counts of “prosecutions” because a prosecution event (prosecution for one or more offense) in a court should result in a court disposition event (disposition for each prosecuted offense). The limitation in this substitution is that it is not possible to be sure that each prosecution event is reported as a court disposition event to the DOJ. Some charges are disposed of by prosecutors without going to court. These dispositions are reported directly to the DOJ by prosecutors, but are entered as arrest dispositions so they are not included as court dispositions.
3. The number of convictions for PC Sections 12021 or 12021.1 only and with other law violations.
This information is available and provided in Table 3 in the Data Section.
4. The number of arrests for PC Sections 12021 or 12021.1 only and with other law violations with previous convictions for serious or violent felonies.
This information is available and provided in Table 4 in the Data Section.
5. The number of arrests, prosecutions, and convictions for PC Sections 12021 or 12021.1 only and with other law violations with previous sentences for PC 1170.12, 12022.5, 12022.53, or 667(b) to (i), inclusive.
This information is not available. These PC sections deal with sentencing guidelines and enhancements, and less than 0.5 percent of convictions for PC Sections 12021 or 12021.1 only or with other law violations with these enhancements were reported to the DOJ in 1998, 1999, and 2000.
6. The number of prosecutions for PC Sections 12021 or 12021.1 only and with other law violations with previous convictions for serious or violent felonies.
This information is available as court dispositions and provided in Table 5 in the Data Section.
7. The number of convictions for PC Sections 12021 or 12021.1 only and with other law violations with previous convictions for serious or violent felonies.
This information is available and provided in Table 6 in the Data Section.
8. The number and lengths, identified as lower, middle, and upper term where the sentence imposed for a violation of PC Sections 12021 or 12021.1 was the principle or subordinate term of imprisonment.
This information is not available. However, sentence terms are presented in Tables 7-65 in the Data Section without information as to whether the violation of PC Sections 12021 or 12021.1 was the principle or subordinate term of imprisonment. When there are convictions for more than one offense in a court event or cycle, a high percentage of case sentence lengths are stored in the DOJ’s Automated Criminal History System (ACHS) as the sum of the sentence lengths for all convicted offenses. In this study, “mixed” convictions, that is convictions for PC Sections 12021 or 12021.1 with other law violations, were present as the sum of sentence lengths approximately 66 percent of the time at the statewide level. Such summing of sentence lengths, along with the complexity and nonuniformity of sentencing data, prevented principle and subordinate terms of imprisonment from being determined. However, the number and lengths of overall sentences for PC Sections 12021 or 12021.1 only or with other law violations are presented.
9. The number of persons granted probation or suspension of the imposition of sentence for a violation of PC Sections 12021 or 12021.1 only or with other law violations.
This information is available, with modification, and provided in Tables 7-65 in the Data Section. The number of probation or imposition of suspension of sentence events, not the number of persons, is provided. This is consistent with other requirements of this law.

10. The length of time between the arrest for PC Sections 12021 or 12021.1 only or with other law violations and the previous felony conviction that resulted in the offender being subject to these Sections.

This information is available and is provided in Table 66 in the Data Section. Just 26.1 percent of persons arrested for PC Sections 12021 or 12021.1 only or with other law violations were found to have prior felony convictions. The

remaining 73.9 percent could have become eligible for PC Sections 12021 or 12021.1 as a result of being narcotics addicts, having specified misdemeanor convictions, or violating an expressed condition of probation. Previous felony conviction was interpreted as the most recent conviction leading to a prison sentence. This conviction preceded an arrest for PC Sections 12021 or 12021.1.

DATA QUALIFICATIONS

Database accuracy: Historically, disposition data have been underreported statewide, resulting in incomplete criminal records. Recently, the DOJ implemented a work plan to identify the causes of underreporting and develop recommendations to improve the reporting of criminal history information by state and local criminal justice agencies. Two major reporting problems identified to date include non-reporting of arrest and court events and incomplete or inaccurate source documents. While this report presents the number of events reported and stored in the DOJ's ACHS, it is highly probable that these data undercount the number of court dispositions which actually occurred.

Unit of count: An individual can have more than one event related to PC Sections 12021 or 12021.1 during the three-year period, 1998-2000. For the purpose of this report, an event is defined as an arrest, court disposition, or conviction for a person consisting of all the involved charges or counts. Four of the six sub-Sections of SB 1608 [(a)(1),(a)(2),(a)(4), and (a)(6)] refer to events, while two of the sub-Sections [(a)(3) and (a)(5)] refer to persons. To provide information that is uniform and can be compared, events and not persons were counted in all cases.

Arrest data: Arrest data include the number of arrests for PC Sections 12021 or 12021.1 only or with other law violations. Arrest data are included in this report whether or not a subsequent disposition was recorded in the ACHS, the database for this report. Additionally, multiple arrests were counted if a person had been arrested more than once for a specified offense during the 1998 through 2000 time period.

Court disposition data: Court disposition data for this report include the number of court dispositions for PC Sections 12021 or 12021.1 only or with other law violations in 1998, 1999, or 2000 regardless of the year in which an arrest occurred. Court dispositions selected for this report are independent of arrest data because court dispositions can be recorded for PC Sections 12021 or 12021.1 only or with other law violations even if a person was arrested for something other than these offenses. Court disposition information sent to the DOJ which is not supported by a corresponding arrest fingerprint card does not create an entry on an individual's criminal history record and is not included in this report.

Conviction data: Many counties exhibit larger conviction counts than court dispositions counts for violations of PC Sections 12021 or 12021.1 only. This appears to have occurred because many "mixed" disposition cases (PC Sections 12021 or 12021.1 with one or more other charges) led to convictions for only PC Sections 12021 or 12021.1. That is, it appears as though the other charges were often dismissed.

Sentencing data: Sentencing findings, at the statewide level, are based on approximately 85 percent of convictions either because the sentence recorded was a combination of all sentences received or was the only sentence. An examination of ACHS conviction data showed that the number of convictions is independent of the number of sentencing fields. Therefore, not using some convictions because they contained multiple sentencing fields and were difficult to interpret programmatically did not appear to bias the study findings.

RESULTS

Detailed results of this study, statewide and by county, are presented in Tables 1-66 in the Data Section. This report section emphasizes statewide findings and compares findings to each other where they are interrelated or occur during the same year.

Overall statewide arrests, court dispositions, and convictions: Statewide arrests, court dispositions, and convictions for PC Sections 12021 or 12021.1 in the ACHS are shown below and in more detail in Tables 1-3 in the Data Section:

	Total			PC Sections 12021 or 12021.1 (only)			PC Sections 12021 or 12021.1 (with other law violations)		
	1998	1999	2000	1998	1999	2000	1998	1999	2000
Arrests*	6,657	5,919	6,219	2,369	1,844	1,739	4,288	4,075	4,480
Court dispositions	4,400	4,271	3,644	1,121	972	662	3,279	3,299	2,982
Convictions	2,866	2,557	2,031	1,854	1,577	1,141	1,012	980	890

*Because of underreporting of court dispositions and convictions to the ACHS, annual counts of arrests should not be compared with annual counts of court dispositions and convictions.

Arrests with previous convictions for serious or violent felonies: All statewide arrests in the ACHS for PC Sections 12021 or 12021.1, shown in more detail in Table 4 in the Data Section, are compared below to statewide arrests in the ACHS with previous convictions for serious or violent felonies:

	Total			PC Sections 12021 or 12021.1 (only)			PC Sections 12021 or 12021.1 (with other law violations)		
	1998	1999	2000	1998	1999	2000	1998	1999	2000
All arrests	6,657	5,919	6,219	2,369	1,844	1,739	4,288	4,075	4,480
Arrests with previous convictions for serious or violent felonies	1,676	1,356	1,468	599	401	399	1,077	955	1,069

Court dispositions with previous convictions for serious or violent felonies: All statewide court dispositions in the ACHS for PC Sections 12021 or 12021.1, shown in more detail in Table 5 in the Data Section, are compared below to statewide court dispositions with a previous conviction for serious or violent felonies in the ACHS:

	Total			PC Sections 12021 or 12021.1 (only)			PC Sections 12021 or 12021.1 (with other law violations)		
	1998	1999	2000	1998	1999	2000	1998	1999	2000
All court dispositions	4,400	4,271	3,644	1,121	972	662	3,279	3,299	2,982
Court dispositions with previous convictions for serious or violent felonies .	1,202	1,139	948	337	285	183	865	854	765

Convictions with previous convictions for serious or violent felonies: All statewide convictions in the ACHS for PC Sections 12021 or 12021.1, shown in more detail in Table 6 in the Data Section, are compared below to statewide convictions with a previous conviction for serious or violent felonies in the ACHS:

	Total			PC Sections 12021 or 12021.1 (only)			PC Sections 12021 or 12021.1 (with other law violations)		
	1998	1999	2000	1998	1999	2000	1998	1999	2000
All convictions	2,866	2,557	2,031	1,854	1,577	1,141	1,012	980	890
Convictions with previous convictions for serious or violent felonies .	785	697	559	536	434	312	249	263	247

Aggregated 3-year comparisons of arrests, court dispositions, and convictions: Aggregated 3-year statewide arrests, court dispositions, and convictions for PC Sections 12021 or 12021.1 in the ACHS are shown below for all instances and for those instances where there were previous convictions for serious or violent felonies:

	Total		PC Sections 12021 or 12021.1 (only)		PC Sections 12021 or 12021.1 (with other law violations)	
	All	With previous convictions for serious or violent felonies	All	With previous convictions for serious or violent felonies	All	With previous convictions for serious or violent felonies
Arrests*	18,795	4,500	5,952	1,399	12,843	3,101
Court dispositions	12,315	3,289	2,755	805	9,560	2,484
Convictions	7,454	2,041	4,572	1,282	2,882	759

*Annual counts of arrests should not be compared with annual counts of court dispositions and convictions.

Convictions by sentence received: Of the 6,344 sentences statewide in 1998-2000 which could be determined, 3,642 (57%) were for prison, with 60 percent of these sentences being from one year up to, but not including, three years' duration. Prison sentences did not fall into the lower, middle, and upper terms of 16 months, two years, and three years due to sentencing enhancements and convictions for other law violations.

Probation and jail, with or without fine or restitution, accounted for 1,377 (22%) of sentences. Probation without jail, with or without fine or restitution, accounted for 127 (2%) of sentences. Probation, therefore, was all or part of 24 percent of sentences. Jail without probation, with or without fine or restitution, accounted for less than 1 percent of sentences.

Imposition of sentence was suspended in 1,163 (18%) of sentences. Fine, restitution, or both accounted for less than 1 percent of sentences.

In summary, sentences involving probation, or where imposition of sentence was suspended, occurred in 42 percent of cases. These findings are presented in more detail in Tables 7-65 in the Data Section.

Length of time between arrest for PC Sections 12021 or 12021.1 and the prior felony conviction: Statewide, approximately 60 percent of arrests for PC Sections 12021 or 12021.1 only or with other law violations occurred less than six years after the previous felony conviction. For almost 30 percent of arrests, the previous felony conviction occurred from six years up to, but not including, ten years prior.

These intervals are misleading if they are taken to represent the time between the previous felony conviction and the unimpeded owning or possessing of a firearm. The period of incarceration following the previous felony conviction was a time during which the individual could not own or possess a firearm. Therefore, the time intervals from previous felony conviction to arrest for PC Sections 12021 or 12021.1 overestimate how soon after the most recent felony conviction that convictees could choose to own or possess a firearm. That is, these time intervals overestimate the deterrent effect of a felony conviction on the subsequent ownership or possession of a firearm.

A better measure of the time period during which felons are deterred from owning or possessing a firearm as a result of their prior felony conviction would be the time from release from prison to being arrested for a violation of PC Sections 12021 or 12021.1. This time would be shorter than the time from previous felony conviction. These findings are presented in more detail in Table 66 in the Data Section.

Some noteworthy findings in county-level data: Arrests for PC Sections 12021 or 12021.1 are

greater for most individual counties when there are other law violations than when there are not. Court dispositions for PC Sections 12021 or 12021.1 are greater for almost all individual counties when there are other law violations, while convictions are greater for most individual counties when there are no other law violations.

For cases where there were previous convictions for serious or violent felonies, the number of arrests and court dispositions are greater for most individual counties when there are other law violations, while there is a tendency for the number of convictions to be greater when there are no other law violations.

As stated above, statewide, 57 percent of sentences were to prison, 24 percent included probation, and 18 percent were imposition of sentence suspended. Some counties with more than 100 total sentences during the three-year period were found to diverge substantially from the statewide means of these sanctions for PC Sections 12021 or 12021.1. Counties with less than 100 total sentences were felt to have too few events for statistically valid comparisons with statewide means. Tables 7-65 in the Data Section of this report can be used to compare sentences.

DISCUSSION

Year-to-year changes, 1998 to 2000: A fundamental question of this study is whether PC Sections 12021 and 12021.1 are effective deterrents to owning or possessing firearms by convicted felons, narcotics addicts, those convicted of specified misdemeanors, and those for whom owning or possessing firearms is expressly prohibited by probation. This study showed that, with the exception of convictions where there were previous convictions for serious or violent felonies, there was a decrease in every category of arrest, court disposition, and conviction from 1998 to 2000 for the targeted offenses.

Before accepting the validity of this finding, it is important to consider that the year 2000 database was created in June 2001 and may not have included some year 2000 criminal justice events which were reported later that year. Comparisons of arrest, court disposition, and conviction data counts were made with another DOJ database

which was created in October 2001. These comparisons indicate that the database used in this study had arrest, court disposition, and conviction counts which were similar to those found in the database created in October 2001. A slight decrease in conviction counts relative to arrest counts was found, as would be expected because court proceedings sometimes begin months after an arrest and take months to complete and be reported to the DOJ. This comparison suggests that about 4 percent of the greater decrease in court dispositions and 5 percent of the greater decrease of convictions relative to arrests in 2000 were the result of obtaining the 2000 data from a data file made in June 2001, rather than in the fall of that year.

This finding does not alter the conclusion about the relative decrease of arrests, court dispositions, and convictions from 1998 to 2000, which were found to be -7 percent, -17 percent, and -29 percent,

respectively. Adjusting the decreases for this finding would change them to -7 percent for arrests, -13 percent for court dispositions, and -24 percent for convictions.

Aggregated 3-year comparisons: Other law violations are present in 68 percent of arrests and 78 percent of court dispositions, but only in 39 percent of convictions for PC Sections 12021 or 12021.1. Therefore, other law violations present at arrest and court disposition are not included at conviction.

Convictions by sentence received: A measure of the extent and severity of application of PC Sections 12021 and 12021.1 is the percentage of convictees who receive prison terms. In almost every PC Section in which jail terms (misdemeanor penalties) can be applied, they are an option to prison terms (felony penalties) and therefore reflect sentencing discretion.

The results show that 57 percent of sentences involved prison and 22 percent involved jail (almost all of which included probation). Thus, incarceration was imposed in 79 percent of convictions. When incarceration was imposed, jail time was required 28 percent of the time.

Sentencing discretion also resulted in 18 percent of convictions having the imposition of sentence suspended. This is not the same as sentence suspended, because if the convictee subsequently engages in an activity which the court views unfavorably, the suspension of the imposition of sentence can be removed and the sentence is imposed. Thus, suspension of the imposition of sentence allows courts to take action in the future, if justified.

Length of time between arrest for PC Sections 12021 and 12021.1 and the prior felony conviction: As was mentioned in the Results

Section of this report, the interval between the previous conviction for a felony and the arrest for PC Sections 12021 or 12021.1 understates the duration of the deterrence effect of the felony conviction on subsequent ownership or possession of a firearm. The interval between release from prison and arrest for PC Sections 12021 or 12021.1 is a better measure of the deterrence effect of the felony conviction.

To estimate the central tendency of the interval between release from prison and subsequent arrest for PC Sections 12021 or 12021.1, the median prison term (two years eight months) could be subtracted from the median interval between felony conviction and the next arrest for PC Sections 12021 or 12021.1 (five years one month). This subtraction would indicate two years five months as the central interval between release from prison and subsequent arrest for owning or possessing a firearm. This is less than half the duration between the felony conviction and subsequent arrest for PC Sections 12021 or 12021.1. This adjusted estimate of the duration of deterrence suggests that the times between felony conviction and subsequent arrest might be halved to arrive at an estimate of the post-prison time to arrest for PC Sections 12021 or 12021.1.

County-level data: Eleven counties with more than 100 total convictions from 1998 to 2000, and with data not having specified limitations, were found to have substantially higher or lower percentages of sentences for prison, probation, or imposition of sentence suspended than the statewide averages. The reasons for these substantially higher and lower percentages can only be determined by additional research involving direct examination of the arrest, prosecution, and court records of each county.

METHODS

A data file containing the criminal history of every individual in the DOJ's ACHS with an arrest, court disposition, or conviction for PC Sections 12021 or 12021.1 occurring in 1998, 1999, or 2000 was extracted from the ACHS by staff of the DOJ's Hawkins Data Center in June 2001.

This report, the first by the Criminal Justice Statistics Center to include programmatic analyses

of the DOJ's ACHS, examined more than 22,000 criminal histories representing approximately one million lines of information.

Computer programming was performed using SAS statistical software, Release 8.02. SAS-created tables were imported into EXCEL and formatted for publication.

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